

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

K.B., by his mother, Nakreisha McFarland,

Plaintiffs,

v.

Case No.

RACINE UNIFIED SCHOOL DISTRICT,

Defendant.

**APPEAL OF DECISION MADE PURSUANT TO
20 U.S.C. SEC. 1415(i)(1)(A) and (2)**

NOW COMES THE PLAINTIFF, K.B., by his attorneys, Gingras, Cates & Wachs LLP by Paul A. Kinne, and hereby states the following as his Appeal of a Decision made pursuant to 20 U.S.C. § 1415.

NATURE OF PROCEEDINGS

This civil action is brought as an appeal of a decision made pursuant to 20 U.S.C. § 1415(i)(1)(A) and (2) under the Individuals with Disabilities Education Act (IDEA), in which Racine Unified School District was the prevailing party.

PARTIES

1. At all times relevant to this complaint, K.B. resided within the boundaries of the Racine Unified School District (RUSD) and was enrolled in school there.

2. At times relevant hereto, RUSD has been a statutorily created public school district operating in the area of Racine, Wisconsin.

JURISDICTION AND VENUE

3. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 20 U.S.C. § 1415.

4. These claims may be venued in the Eastern District of Wisconsin pursuant to 28 U.S.C. § 1391, insofar as all of the parties live and/or conduct business in the Eastern District of Wisconsin, and the circumstances giving rise to this claim occurred in this district.

STATEMENT OF FACTS

5. K.B. is a profoundly disabled child. He suffers from Plasiuous-Merzbacher disease, a rare disorder similar to muscular dystrophy. He is wheelchair bound. He cannot feed himself nor can he engage in basic hygiene by himself. He also has great difficulty speaking.

6. At all times relevant to this complaint, he attended Wadewitz Elementary School within the RUSD, where he was provided with an Individualized Educational Plan (IEP).

7. During the course of his education at RUSD, RUSD engaged in the following conduct:

a. It failed to allow K.B. to participate in field trips and community experiences;

b. It failed to have properly licensed and trained staff, including a LPN in the student classroom;

c. It failed to provide occupational therapy, physical therapy and speech / language services to K.B.;

d. It failed to follow the K.B.'s health plan and / or address his medical needs; and

e. It denied K.B. a Free and Appropriate Public Education (FAPE) through procedural violations, including a failure to communicate with his parents.

13. On September 5, 2018, K.B. requested a due process hearing.

14. On October 18 and 22, 2018, the State of Wisconsin Division of Hearings and Appeals conducted a due process hearing. K.B.'s parents and RUSD appeared at and participated in the hearing.

15. On December 3, 2018, the Division issued its decision, which is attached hereto as Exhibit A.

16. Pursuant to 20 U.S.C. § 1415(i)(1)(A) and (2), K.B., by his mother, Nakreisha McFarland, K.B. hereby appeals this decision, on the grounds that:

a. The decision is against the greater weight of the evidence;

b. The administrative law judge made errors in her factual determinations;

c. The record is incomplete and in need of supplementation through additional facts presented to this Court; and

d. The administrative law judge made errors of law in applying the law to the facts.

WHEREFORE, K.B. demands the following relief:

- A. Judgment in his favor, reversing the decision of the
Administrative Law Judge;
- B. An opportunity to supplement the record with additional facts;
- C. Relief as permitted by the IDEA;
- D. An award of attorney fees and costs; and
- E. Any additional relief this Court deems just to award.

Dated this 4th day of January, 2019.

GINGRAS CATES & WACHS LLP
Attorneys for Plaintiff

s/ Paul A. Kinne

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